

## FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

April 13, 2011

## **MEMORANDUM**

TO:

Gregory Baker

Special Counsel

Office of Complaints and Legal Administration

Kathleen Guith

**Associate General Counsel Enforcement Division** 

THROUGH: Jeff S. Jordan

Supervisory Attorney

Office of Complaints and Legal Administration

FROM:

Lawrence L. Calvert, Jr. Associate General Counsel

General Law and Advice Division

Lorenzo Holloway

Assistant Gameral Counsel

Public Finance and Audit Advice Team

Allison T. Steinle

Attorney

SUBJECT:

Directive 6 Referral - AT 10-01 (2006 Committee to Elect Cynthia Rodriguez

Matthews to the 26<sup>th</sup> Congressional District)

In the regular course of reviewing this committee's eligibility for administrative termination, the General Law and Advice Division discovered potential violations of the Act and Commission regulations by the candidate, Cynthia Rodriguez Matthews, in both her personal and official capacity as tressurer of her authorized committee. Accordingly, on April 7, 2011, the Commission decided by a vote of 6-0 to refer the matter to the Enforcement Division pursuant to Directive 6. Attached please find a memorandum we circulated to the Commission, which summarizes our reasons for helieving violations may exist and provides information on the

Directive 6 Referral AT 10-01 Page 2 of 2

remedial steps we have taken. If you have any questions or need additional information, please contact Allison T. Steinle, the atturney assigned to this matter.

#### Attachments:

- 1. Referral Certification
- 2. Memorandum to the Commission dated March 25, 2011
- 3. Candidate Background Check Information

CC: Shawn Woodhead Werth Commission Secretary

# ATTACHMENT 1 OF 3

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Administrative Termination Referral — ) AT 10-01 (2006 Committee to Elect Cynthia )

Rodriguez Matthews to the 26th )

Congressional District) )

## **CERTIFICATION**

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 07, 2011, the Commission decided by a vote of 6-0 to refer the matter to the Enforcement Division pursuant to Directive 6.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

17, 20 // Date

Shawn Woodhead Werth

Secretary and Clerk of the Commission

EXCHMENT 2 DE 3



# FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 201463

271 7 ... 25 P 3: 19

March 25, 2011

## **MEMORANDUM**

SENSITIVE

TO:

The Commission

THROUGH:

D. Alcc Palmer

**Acting Staff Director** 

FROM:

Christopher Hughey

**Acting General Counsel** 

Lawrence L. Calvert, Jr.

Associate General Counsel for

General Law and Advice

Lorenzo Holloway

Assistant General Counsel for Public Finance and Audit Advice

Allison T. Steinle

Attorney

SUBJECT:

Administrative Termination Referral - AT 10-01 (2006 Committee to

Elect Cynthia Rodriguez Matthews to the 26th Congressional District)

#### I. INTRODUCTION

The purpose of this memorandum is to update the Commission and make a recommendation regarding how the Commission should proceed with the administrative termination of the 2006 Committee to Elect Cynthia Rodriguez Matthews to the 26<sup>th</sup> Congressional District ("the Committee"). For the reasons set forth below, we recommend that the Commission refer the matter for enforcement action pursuant to Commission Directive 6.

## 11. BACKGROUND

The Committee was the principal campaign committee of Cynthia Rodriguez Matthews, who won the 2006 Democratic primary but was unsuccessful in the general election for the 26<sup>th</sup> Congressional District of California. The Committee stopped regularly filing with the Commission after its 2006 Year-End Report. Its 2006 Year-End Report indicated it had \$67,070

Memorandum to the Commission Admitistrative Termination Referral (AT 10-01) Page 2 of 5

cash-on-hand and \$15,837 in outstanding debts and obligations. The Committee has not filed a termination report, and it has failed to respond to fourteen consecutive Non-Filer Notifications:

Committee's eligibility for administrative termination. See 11 C.F.R. § 102.4(a). Because we discovered that Ms. Rodriguez Matthews' name appeared on the ballot in the 2008 Democratic primary for the 26th Congressional District of California, but she neither registered a subsequent committee with the Commission nor disclosed any activity associated with that election, we circulated a memorandum setting forth the Commission's options and recommending that the Commission decline at that time to administratively terminate the Committee. Attachment 1. The Commission considered the matter is executive session on October 19, 2010. It accepted our recommendation to decline to administratively terminate the Committee, and directed this Office to seek additional information from the candidate about the disposal of the Committee's remaining cash-on-hand, as well as inform the candidate of her filing and reporting obligations with respect to the 2008 primary election.

With the help of an investigator, we located and semt a letter to the candidate's most recent address on November 5, 2010. The letter informed the candidate of her legal obligations, and requested additional information about the disposal of the Committee's remaining cash-onhand, as well as any contributions or expenditures the annihilate or the Committee received or made in casecetion with the 2008 primary election. Attachment 2. We received confirmation from the U.S. Postal Service that the letter was delivered on November 15, 2010, as well as a return receipt signed by an unknown recipient on that date. Attachment 3. When we received no response to our letter after ten days, we also located a possible telephone number and attempted to contact the candidate by telephone on December 5, 2010. We reached a generic answering machine that did not identify who would receive the messages, and left a message explaining that we were trying to reach Ms. Rodriguez Matthews concerning an important matter about her campaign. On February 28, 2011, we located a second possible telephone number and again attenged to contact the condidate. We remitted an individual who identified hereelf as Rathel Matthews. We explained we were trying to reach Ms. Bottriguer Matthews concerning the administrative termination of her campaign. The individual stated that she would relay the message if she could find Ms. Rodriguez Matthews, but would not provide us with another way of contacting Ms. Rodriguez Matthews or any other contact information. As of this date, Ms. Rodriguez Matthews has not responded to our letter or telephone messages.

## III. ANALYSIS

This Office has no direct evidence that the Committee Improperly disposed of its remaining eash-on-hand, or that Ms. Rodriguez Matthews or the Committee seceived contributions or made expenditures in excess of \$5,000 with respect to the 2008 election such that she was a candidate whose authorized committee was required to register with and report to the Commission. See 2 U.S.C. §§ 431(4)(a), 433(a), 434(a)-(b); 11 C.F.R. §§ 100.3(a), 100.5(d),

This addigm in also the listed attitess of a business that is currently orgistered with the State of California in the candidate's name.

Memorandum to the Commission Administrative Termination Referral (AT 10-01) Page 3 of 3

102.1, 104.1. As our previous memorandum indicated, our Internet searches have not revealed any fundraising activity or political advertising related to the 2008 election.

Nonetheless, because Ms. Rodriguez Matthews appears to have received, but did not respond, to either our letter or call, questions remain about how the Committee disposed of its remaining cash-on-hand, whether the Committee's cash-on-hand was used in connection with the 2008 primary election, and whether the candidate or the Committee received contributions or made expenditures in 2008. Accordingly, we are recommending that the Commission refer the matter for enforcement action pursuant to Directive 6.

In previous administrative terminations where the committees last reported substantial amounts of remaining cash-on-hand, we were able to contact all the committees in question, and we eventually recommended administrative termination because the committees indicated that they had or were planning on disposing of the funds in a manner consistent with the Act and Commission regulations. See AT 06-269—06-273 (Bob Stump Election Committee, John Glenn for Senate, Foglietta for Congress, Kon Kirk for U.S. Senate, and Bill Janklow for Congress). Here, however, the candidate has failed to contact us after we have made several attempts to contact her, and we have no assurances that the Committee has properly disposed of the funds or plans to properly dispose of the funds.

Mornover, there are several relevant facts that were not present in the previous administrative terminations. Not only did the Committee last report \$67,070 in remaining cashon-hand, but the candidate's name was on the 2008 primary ballot and she neither filed a Statement of Candidacy with the Commission nor reported any contributions or expenditures associated with that election. And although we have no direct evidence at this time that the candidate improperly disposed of the funds or exceeded the \$5,000 reporting threshold with respect to the 2008 election, there is some circumstantial evidence that the candidate may have done se. According to the California Secretary of State's office, Ms. Rodriguez Matthews personally submitted sixty signatures and paid a fee of \$1,652 to be placed on the 2008 primary ballot under California law. Attachment 8. Moreover, Cynthia Redriguez Matthews received 32.6 persent of the vote in the 2008 primary, which constituted a total of 17,165 votes in the district. Id.

The Commission has addressed similar facts in recent enforcement matters. In MUR 6315 (Alvin M. Greene and Alvin M. Greene for Senate), for example, the candidate failed to file a Statement of Candidacy with the Commission and failed to report any contributions or expenditures despite appearing on the ballot in the 2010 Democratic primary and general elections. While the candidate and his counsel did not ignore all correspondence in that case, they did not meeped to the contribution. The Commission centeluded that the contribute excended the \$5,000 threshold when he paid \$10,440 in hallot access fees, which are treated as expenditures under the Act and Commission regulations. The Commission found reason to believe the candidate vialated 2 U.S.C. § 432(e)(1) and his authorized committee violated 2

<sup>&</sup>lt;sup>2</sup> The 26th Congressional Direct of California had 120,426 registered Democratic voters in 2008. Attachment 5.

Memorandum to the Commission Administrative Termination Referral (AT 10-01) Page 4 of 1

U.S.C. §§ 433(a) and 434(a) and (b). See MUR 6315 (Alvin M. Greene and Alvin M. Greene for Sepate), Factual and Legal Analysis.

Likewise, in MUR26312 (Citizens to Elect Brian Doyle), the candidate failed to file a Statement of Candidacy with the Commission and failed to report any contributions or expenditures despite declaring himself a candidate and spending over \$5,000 of his personal funds in connection with the campaign. In that case, however, the Commission dismissed the complaint but sent a cautionary letter because the candidate used only his personal funds, avoided soliciting centributions, had a mistaken belief that expenditures from personal funds were an required to be disclosed, and had avoidably placed the itemized contributions and expenditures on the public record. See MUR 6312 (Citizens to Elect Brian Doyle), Factual and Legal Analysis.

We also note that the Commission has proceeded in cases where there was no direct evidence that a candidate exceeded the \$5,000 threshold. For example, in MUR 5663 (Russ Diamond), the Commission did not have direct evidence that the candidate exceeded the \$5,000 threshold. Nevertheless, the Commission found reason to believe that the candidate violated 2 U.S.C. §§ 432(e)(1), 433, and 434(a) when he failed to file a Statement of Candidacy, register an authorized committee, and report any contributions or expenditures with the Commission. This determination was based on circumstantial evidence suggesting that he may have exceeded the \$5,000 threshold despite his assertions to the centrary, including the fact that he used his business's office space and equipment for campaign purposes and made several disbursements for his dual state campaign that may have had federal components. See MUR 5663 (Russ Diamood), Factual and Legal Analysis.

Unlike the candidate in MUR 6315, Ms. Rodriguez Matthews did not exceed the \$5,000 threshold when she paid \$1,652 in ballot access fees, and she was unsuccessful in the primary election. Like in MUR 5863, However, we have some circumstantial evidence suggesting that that the candidate may have exceeded the \$5,000 threshold, either by expending some of the Committee's ramaining each-on-hand from her 2006 campaign or from her own parsonal funds.

In summary, we know that Ms. Rodriguez Matthews was an experienced condidate who previously ran in 2004 and 2006; stopped filing reports after the 2006 election; has filed no reports since; had a significant amount of cash-on-hand at the time the Committee stopped filing; appeared on the 2008 primary election ballot after collecting sixty signatures and paying \$1,652 in ballot access fees; received 32.6 percent of the vote in the 2008 primary; and has failed to respond to several contact attempts. We believe that this information warrants referral for an evaluation of whother to pursue an enforcement action.

Finally, we note that regardless of whether the Committee that the reproting thresholds with respect to the 2008 primary diection, the Committee had an obligation to continue reporting with respect to the 2006 alaction. The Commission's regulations require a Congressional committee that has expect the \$5,000 reporting threshold to continue filing quarterly reports with respect to that election until the Committee has terminated. See 11 C.F.R. §§ 102.3, 104.1(a), 104.5(a)(1). RAD has not referred the 2006 matter to the Administrative Fines Program because the lack of any reported financial information provides no basis for the

ne:

Memorandum to the Commission
Administrative Termination Referral (AT 10-01)
Page 5 of 5

calculation of an administrative fine.

We acknowledge that the disadvantage to referring this matter for enforcement action pursuant to Directive 6 is that much of the existing information is speculative

Due to the unique circumstances discussed above, however, we believe it would be appropriate to refer the matter to the Enforcement Division to determine whether to recommend that the Commission find reason to believe that a violation has occurred with respect to the 2006 or 2008 elections, or both.

#### IV. RECOMMENDATION

Accordingly, we recommend that the Commission refer the matter to the Enforcement Division pursuant to Directive 6.

#### Attachments:

- (1) Memorandum to the Commission dated September 23, 2010
- (2) Letter to Cynthia Rodriguez Matthews dated November 5, 2010
- (3) U.S. Postal Service Delivery Confirmation and Return Receipt
- (4) Ballot Materials from the California Secretary of State's Office
- (5) June 3, 2008 Primary Election Results and Voter Turnout for the 26<sup>th</sup> Congressional District of California

## Certificate of the Secretary of State

I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the following is extracted from the results of the official canvass of the returns of the June 3, 2008, Statewide Direct Primary Election.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Great Seal of California, at Sacramento, this 12th day of July, 2008.

DEBRA BOWEN Secretary of State



# Representative in Congress

# 25th Congressional District

	Jackie Consway DEM	Howard P. "Buck" McKean" REP
iryo	1,460	2,150 21,784
Las Angeles Mono	958 4,366	1,239 5,8 <b>6</b> 4
San Bernardino District Totals Percent	16,054 700 0%	

## 26th Congressional District

	Cynthia Rodrigues	Russ Warner	Qavid Oreier*	Sardo Sardo	Ted Brown
	Matthews DEM	DEW	REP	REP	LIB 140
Los Angeles	5.165	12.080 5.085	19,986 9,641	6,978 3,180	98
San Bernardino Gistrict Totals	3,:62 8,327	17.165	29,527	10,158	23 <b>6</b> 100 <i>6</i> %
Oncert	23 6%	67 4%	74.5%	25 5%	1000 11

## 27th Congressional Oistrict

DEM REP 25.591 13,354 25,591 12,354	Tim Handen LIB 196 196 1900%
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25,591 13.	)54

## 28th Congressional District

	Howard L.
	Barman'
	DEM
Los Angeles	23,265
District Totals	23,269
Percent	FØ 001

## 29th Congressional District

	Adam 8. Scriff* DEM	Charles Hahn REP	Aran Pyealt LIB
	24,486	16,241	146
Los Angeles	24,486	16,241	146
District Telefa	100 0%	-00 0%	100.0%

# FEDERAL ELECTION COMMISSION OGC INDEX - (0) (2009-2010)

DATE 4/16/2010 PAGE 1

PATTHENS CYNTHIA

ID SH4CA26097

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DATE 4/15/2010 PACE

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# FEDERAL ELECTION CORRESSION OGC INDEX - (0; (2005-2006)

9ATE 4/16/2010 PAGE 1

IEWS, CYMTHIA

10 SH4CA26097

2006 COMMITTEE TO ELECT CYNTHIA RODRIGUEZ MATTHEWS, TO 26TH CONGRESSIONAL DISTRICT MALTINGMS. CYNTATO 1212 SOUTH VICTORY BOULEVARD SURBAN Matthews, Cynthia FILING FREDURICY: QUARTERLY SURBANK

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FEDERAL ELECTION COMMISSION OGC INDEX - [0] (2005-2006)

DATE 4/16/2010 PAGE 2

ED #M4CA26097

HEWS. CYNTHIA

2006 CORRESTEE TO ELECT CYNTHEA RODINGUEZ NATTHEMS TO 26TH CONGRESSIONAL DISTRICT MATERIALS. CYNTHES 1212 SOUTH VICTORY BOULEVARD BURBANK FILING FREQUENCY: QUARTERLY

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3	30G	A		1/31/2007	i	27940113937	10/19/2006	11/27/2006	67070	0	0	67070	) 0
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# **BALLOT DESIGNATION WORKSHEET**

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# June 3, 2008 Primary Election Results.

# Representative in Congress

# 25th Congressional District

1 m	CONTINUEÀ	Howard P. "Buck" McKeon"		
inyo	DEM	REP		
Los Angeles	1.480	2,150		
Mono	11.270	21,784		
San Bernardine	950	1,239		
District Totals	4.366	5,784		
Percent	18,054	30,937		
•	100.0%	100.0%		

# 26th Congressional District

		an ICI			
	Cynthie Rodriguez Matthews	Ruse Warner	David Breier*	Sonny Sardo	Ted Brown
Las Angeles San Bernardino District Totals Percent	5.185 3,162 8,327 33,8%	DEM 12,080 5,085 17,165 87,4%	REP 19,986 9,841 29,627 74,5%	REP 6,978 3,180 10,158 25,5%	Lie 140 98 238 100.0%

# 27th Congressional District

	· Bred Sherman' DEM	Nevraj Singh	Tim Dentan
Les Angeles District Totals Percent	25,591 25,591 100.0%	REP 13,354 13,354 100.0%	LIS 196 196 100.0%

# 28th Congressional District

	Howard L
Los Angeles District Totale Percent	Bermen
	Dem
	23,265
	23,265
	100.0%

# 25th Congressional District

		••••	i and in util
Los Angulas District Tetals Parcens	Adam B, Schiff DEM 24,486 24,486 100,9%	Charles Mohn REP 16,241 16,241 100,0%	Atan Pyeate LIB 146 146
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## Report of Registration as of May 19, 2008 Registration by US Congressional District

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	-					
	Total Registered			American		
19.5°	wed steled	Democratic	Republican	Independent	Green	
US Congressional 23						
San Luis Obispo	76,244	31,014	26,508	1,541	1,057	
Santa Barbara	135,644	62,207	39,252	2,542	1,673	
Ventura	85,430	44,400	21,488	1,594	525	
District Tetal	297,318	137,621	87,248	5,677	3,255	
Percent		46.29%	29.35%	1.91%	1.09%	
US Congressional 24						
Santa Barbara	52,633	16,623	24,889	1,309	241	
Ventura	306,658	110,259	129,048	6,332	2,007	
District Total	359,291	126,882	153,937	7,641	2,248	
Percent		35.31%	42.84%	2.13%	0.63%	
US Congressional 25						
Inyo	9,918	3,292	4,510	281	74	
Los Angeles	239,390	85,961	101,274	5,868	875	
Mara	6,706	2,215	2,557	188	85	
San Bernardino	69,292	27,016	26,033	2,301	173	
District Total	325,306	118,484	134,374	8,638	1,207	
Percent	•	36.42%	41.31%	2.66%	0.37%	
US Congressional 26						
Los Angeles	217,738	73,744	91,253	3,666	1,244	
San Bernartino	129,698	48,682	56,036	2,919	553	
District Total	347,436	(120,426)	147,289	6,585	1,797	
Pierte nt		34.66%	42.39%	1.90%	0.52%	
US Congressional 27						
Los Angeles	280,712	134,706	77,479	5,429	1,758	
District Total	280,712	134,706	77,479	5,429	1,758	
Percent		47.99%	27.60%	1.93%	0.63%	
US Congressional 26						
Los Amgeles	229,980	12 <del>9</del> ,012	43,254	4,282	1,483	
District Tctal	229,980	129,012	43,254	4,282	1,483	
Percent		56.10%	18.81%	1.86%	0.64%	
US Gengrassianal 29						
Los Angeles	293,256	129,741	84,001	4,871	1,900	
District Total	293,256	129,741	84,001	4,871	1,900	
Percent		44.24%	28.64%	1.66%	0,65%	